(Spl. - H.C.A.S. C.D., 78-e)

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF BOMBAY AT GOA

PANAJI – GOA

APPELLATE SIDE

CRIMINAL MISCELLANEOUS APPLICATION NO. 176 OF 2004

Office Notes, Office Memoranda of Quorum appearances, Court's orders, or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. S. N. Sardessai, Public Prosecutor for the Applicant.

Mr. S. K. Kakodkar, Senior Advocate with Mr. Joel D'Souza, Advocate for the Respondent.

CORAM : N. A. BRITTO, J.

DATE :28TH OCTOBER,2004.

P.C.:-

Heard Mr. S. N. Sardessai, learned Public Prosecutor on behalf of the Applicant in support of the application for leave to appeal against the Judgment of acquittal passed by the learned Judicial Magistrate, First Class, Bicholim, in Cri.Case No.97/S/02/C in acquitting the Respondent/Accused under Section 379 I.P.C. and Section 3 of P.D.P.P. Act.

I have also heard Mr. S. K. Kakodkar, learned Senior Counsel on behalf of the Respondent/Accused at

length.

A number of authorities have been cited by Mr. Kakodkar, learned Senior Counsel. In my view, the parameters to be used at the time of granting of leave to appeal and at the time of re-appreciating the evidence of the prosecution in an appeal cannot be the same. Many of the reasons given by the learned Judicial Magistrate, First Class in support of the acquittal appears to be unreasonable and, therefore, the evidence of prosecution produced in the case requires a deeper and closer scrutiny to be made to find out whether the acquittal was at all justified. Admittedly, this was a case where the allegation against the accused was that he was a Market Inspector and had committed theft of the said van and the complaint against him was filed by the Chairperson of the very Municipal Council where the accused was working.

I am, therefore, inclined to grant leave to appeal. Appeal to be registered

and upon registration, the appeal to proceed for hearing.

N. A. BRITTO, J.

RD.